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Letter dated 23 October 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached supplementary report of the Kingdom of Bhutan submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 19 October 2006 from the Permanent Representative of Bhutan to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

With reference to your letter dated 26 April 2006, I am forwarding herewith a supplementary report submitted by the Royal Government of Bhutan concerning the implementation of the provisions of resolution 1373 (2001) (see enclosure).

(Signed) Dato Penjo
Ambassador
Permanent Representative

Enclosure*

Security Council resolution 1373 (2001): supplementary report submitted by the Kingdom of Bhutan

Operative paragraph 1:

- **Could Bhutan please indicate how it complies with and proposes to comply with the requirements of each of the sub-paragraphs of paragraph 1? Please provide answers for each of the sub-paragraphs, with a description of the relevant clauses of existing or proposed laws and ensure compliance.**

Sub-paragraph (a)

Pursuant to Security Council Resolution 1373, the Kingdom of Bhutan signed the International Convention for the Suppression of the Financing of Terrorism on 14th November 2001 and ratified it on 22nd March 2004.

The Royal Monetary Authority (Central Bank) supervises and regulates the activities in the financial sector as per the relevant laws and regulations in effect in the Kingdom of Bhutan. These are the Royal Monetary Authority Act 1982, Financial Institution Act 1992, Foreign Exchange Regulations 1997and the Prudential Regulations 2002. The Royal Monetary Authority can issue freeze orders and directives to the financial institutions, which are binding.

The Prudential Regulations 2002 issued by the Royal Monetary Authority of Bhutan (Central bank) provides a broad framework for quasi-judicial responsibilities that financial authorities have to adhere to and comply with at the minimum. These regulations incorporate the minimum standards of 25 Core Principles for Effective Banking Supervision, which is being promulgated by the Basel Committee for Banking Supervision, BIS. Section 18 of the Regulations deals with money laundering and in order to prevent such activities, financial institutions must implement measures such as:

- *Know your customer policy*
- *Customer transaction profile*
- *Information on cash transaction*
- *Information on foreign currency transaction*

Under Article 59 of the Financial Institutions Act, 1992 financial institutions in the country are required to reveal to the Royal Monetary Authority any evidence of serious criminal activity either in the Kingdom or abroad which it suspects is associated with the use of a bank account or its proceeds, or if it suspects that investments are the products of a serious criminal activity either in the Kingdom or abroad.

The Royal Monetary Authority has issued notice to the financial institutions to draw attention to Article 59 of the Financial Institutions Act, 1992 and report to the Royal Monetary Authority any illicit financial transaction related to individuals and entities contained in the 1267 Committee List.

* Annexes are on file with the Secretariat and are available for consultation.

Sub-paragraph (b)

As a state policy, terrorism in all forms is denounced by Bhutan and it is made unlawful through our legislation.

Chapter 23 of the Bhutan Penal Code 2004 deals with terrorism and related offenses. The offense of terrorism is a felony of the first degree with minimum sentencing of 15 years to life imprisonment.

Money Laundering is a penal offence under the Bhutanese law. The Penal Code of Bhutan 2004 and the Narcotic Drugs, Psychotropic Substances and Substance Abuse Act 2005 have provisions to deal with money laundering and other related issues.

Section 29 of the Civil and Criminal Procedure Code of Bhutan 2001 enables the Royal Courts of Justice to apply the provisions of international conventions, covenants, protocols and treaties that have been duly acceded to by the Royal Government and ratified by the National Assembly.

Sub-paragraph (c)

The Ministry of Finance, through the Royal Monetary Authority (Central Bank), has directed all financial institutions within the country to immediately freeze any accounts and assets if detected to be related to individuals and entities contained in the List. Financial institutions have also been advised to remain vigilant against any illicit financial transaction, which should be reported to the Royal Monetary Authority (RMA) for further investigation. Till date no specific reports have been received from the financial institutions on such matters.

Operative Paragraph 2

Sub-paragraph (a):

- Please describe the legal provisions relating to the sale and possession of weapons within and from the territory of Bhutan.

Firearms and Ammunition Act 1990 regulates the importation, possession and handling of firearms and ammunition. The possession of firearms is limited and an arms license can only be issued after thorough verification. The Act was further amended in 2001 in keeping with Security Council resolutions.

The Bhutan Penal Code 2004 has provisions to deal with illegal manufacture, possession and sale of firearms, ammunition, explosives or a lethal weapon. An offence of illegally manufacturing a weapon of mass destruction is punishable for life imprisonment.

Sub-paragraph 2 (b)

- **Please explain how the requirements of this sub-paragraph will be fulfilled particularly in regard to exchange of information on terrorist matters with other states.**

Information among South Asian countries is exchanged through the SAARC Terrorist Offences Monitoring Desk in Colombo, Sri Lanka, which was set up to coordinate activities under the SAARC Regional Convention for the Suppression of Terrorism.

Information on terrorist activities and other related issues are also shared amongst the BIMSTEC member countries (Bangladesh, Myanmar, Thailand, Nepal, Bhutan, Sri Lanka and India) through periodic intelligence sharing meetings on combating the financing of terrorism, legal and law enforcement issues, prevention of illicit trafficking in narcotic drugs, psychotropic substances and precursor chemicals.

The Kingdom of Bhutan became a member of the International Criminal Police Organization (INTERPOL) in September 2005. Consequently, the Royal Bhutan Police has set up a National Central Bureau-INTERPOL (NCB-Interpol) to maintain cooperation/coordination with INTERPOL. One of the aims and objectives of the NCB-Interpol is to create a National Criminal Database for the purpose of sharing information amongst member states in combating transnational crime including terrorism.

Bhutan is connected to the INTERPOL Global Police Communications system i.e. the I-24/7 system, which allows all member states to access crucial data or exchange messages instantly to investigate cross border crime or seek the arrest of international fugitives.

Proposals are also underway to setup a computerized Automated Border Control System (ABMS) among the various law enforcement and border control agencies to facilitate cross border security through information sharing. However, the implementation of this will largely depend on sufficient funds being available.

Sub-paragraph 2 (c)

- **Please describe the legal provisions that regulate movement of persons into and out of Bhutan. Are there any legal provisions that deny safe haven to those who finance, plan, facilitate or carry out terrorist acts?**

The entry and exit of all foreign nationals is regulated under the provisions of the Visa Regulations 1990 and the Immigration Handbook/Immigration Rules 1995. All foreign nationals must possess (a) proper identity documents/travel documents and (b) obtain prior visa clearance before arrival in Bhutan. The screening process starts when the visa is being applied for and not just when the applicant enters Bhutan. The details of the applicants are cross-checked against the movement alert list maintained by the border control authorities before entry is permitted.

The following domestic legislations provide the legislative framework to deal with acts of terrorism and activities related to it:

a) *The Enabling Act for the SAARC Regional Convention on Suppression of Terrorism 1991*

b) *The Extradition Act 1991. This was enacted to enable the extradition of persons who had committed serious crimes of extraditable nature and to implement the SAARC Convention on Suppression of Terrorism 1991.*
c) *The National Security Act 1992*
d) *Financial Institutions Act 1992*
e) *Prudential Regulation 2002*
f) *Bhutan Penal Code 2004*
g) *The Civil & Criminal Procedure Code of Bhutan 2001*
h) *The Narcotic Drugs, Psychotropic Substances and Substance Abuse Act 2005.*

Bhutan is also a state party to the following international counter-terrorism conventions:

a) *International Convention against the Taking of Hostages*
b) *Convention on the Prevention and Punishment of Crime against International Protected Persons including Diplomatic Agents*
c) *Convention on Offences and Certain Other Acts Committed on Board Aircraft*
d) *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation*
e) *Convention for the Suppression of Unlawful Seizure of Aircraft*
f) *International Convention for the Suppression of the Financing of Terrorism*
g) *Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the suppression of Unlawful Acts against the Safety of Civil Aviation*
h) *Convention on the Marking of Plastic Explosives for the Purpose of Detection*

In addition Bhutan is a party to the SAARC Regional Convention for the Suppression of Terrorism and the Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism.

Under domestic laws all international instruments duly acceded to by Bhutan are self-enacting. Please refer to answer provided for in OP/1(b).

Sub-paragraph 2 (d)

- **Please explain how Bhutan prevents its territory from being used to carry out terrorist acts outside its territory.**

Bhutan engaged in military operations in the winter of 2003 to flush out militants from the neighboring Indian states of Assam and West Bengal who were illegally camped in the country. To prevent the sneaking of terrorist elements into Bhutan the security forces and forestry personnel conduct regular patrolling of the border areas.

Sub-paragraph 2 (e)

- **Please outline the particular clauses of the National Security Act of 1992 that criminalize the various acts that are required by the Resolution to be criminalized. Please also provide information on the penalties that apply to the various offences.**

National Security Act 1992

Section 8: *Whoever by words, either spoken or written, or by any other means whatsoever, creates misunderstanding or hostility between the government and people of Bhutan and the Government and people*

of any foreign country with which Bhutan has peaceful and friendly relations, or attempts to create such misunderstanding or hostility, shall be punished with imprisonment which may extend to five years.

Section 9 (a): Whoever by words either spoken or written, or by other means whatsoever, promotes or attempts to promote, on grounds of religion, race, language, caste or community, or on any other ground whatsoever, feelings of enmity or hatred between different religious, racial or language groups or castes and communities, or

9 (b): Whoever commits any act which is prejudicial to the maintenance of harmony between different religious, racial or language groups or castes or communities, and which disturbs or is likely to disturb the public tranquility.

9 (c): Shall be punished with imprisonment, which may extend to three years.

Section 329 of the Penal Code of Bhutan 2004 provides that a defendant shall be guilty of the offence of terrorism, if the defendant:

(a) With intent to subvert the state, uses or assists, recruits, or trains another person to use a bomb, dynamite, fire-arm, or other lethal weapons for terrorist activities; or
(b) Participates in financing, planning, or preparation of terrorist acts or in supporting terrorist acts directly; or
(c) Engages in a violent act or insurrection against Bhutan that is designed primarily to generate fear in a community or a substantial section of the society.

Section 330: The offence of terrorism shall be a felony of the first degree i.e. minimum of 15 years to life imprisonment.

Section 331(b): A defendant shall be guilty of sedition if the defendant creates animosity between Bhutan and its people or Bhutan and the government of a foreign country with which Bhutan has peaceful and friendly relations.

Section 332: The offence of sedition shall be a felony of the third degree i.e. minimum of 5 to 9 years of imprisonment.

Sub-paragraph 2 (f)

- **Please describe the procedure adopted by Bhutan to provide assistance to other countries in connection with criminal investigation or criminal proceedings.**

The Extradition Act of 1991 provides for the legal framework in facilitating criminal investigation and criminal proceedings with regard to the extradition process of a fugitive offender.

Please also refer to answer provided for in OP/2 (b).

Sub-paragraph 2 (g)

- **Please provide a description of the mechanism for inter-agency cooperation amongst the agencies responsible for narcotics control, financial tracking and border control.**

Under the Narcotics Drugs, Psychotropic Substances and Substance Abuse Act 2005 the Bhutan Narcotics Control Board has been established which provides for proper coordination of activities and sharing or information amongst the concerned agencies responsible for narcotics control and other related crimes.

The Royal Monetary Authority (Central Bank) supervises and regulates the activities in the financial sector as per the relevant laws and regulations in effect in the Kingdom of Bhutan. Under Article 59 of the Financial Institutions Act, 1992 financial institutions in the country are required to reveal to the Royal Monetary Authority any evidence of serious criminal activity either in the Kingdom or abroad which it suspects is associated with the use of a bank account or its proceeds, or if it suspects that investments are the products of a serious criminal activity either in the Kingdom or abroad. Under Section 19 of the Prudential Regulation 2002, which deals with on-site examination of financial institutions the Financial Institutions Supervision Division of the Royal Monetary Authority, as part of its vigilance and surveillance system, conducts frequent on-site visits of the financial institutions to specifically check and verify their financial operations.

In pursuant to its efforts in strengthening the anti-money laundering framework, the Royal Monetary Authority under the assistance from the Asian Development Bank is in the process of establishing a Financial Intelligence Unit (FIU), which would include all relevant agencies in developing a comprehensive national anti-money laundering program in the country. The FIU could bring together the law enforcement agencies, financial regulatory authorities and judicial/prosecutorial authorities which would jointly work towards fighting money laundering through adoption and implementation of the Financial Action task Force (FATF) anti-money laundering standards in accordance with existing infrastructure and legal framework in the country.

The Department of Immigration under the Ministry of Home & Cultural and the Royal Bhutan Police are responsible for security with regard to border control. Since August 2005 a Coordination Committee comprising of various border control agencies has also been established to share information and to set up an Automated Border Management System (ABMS). The ABMS Coordination Committee meets on a monthly basis. However, as indicated under OP/2(b) the implementation of an ABMS will largely depend on sufficient funds being available.

Sub-paragraphs 3 (a), (b) and (c)

- **Please describe the arrangements if any, that Bhutan has in place to enable it to share with other countries operational information in regard to terrorists.**

Please refer to the answer provided for in OP/2 (b).

Sub-paragraph 3 (d)

- **The CTC would welcome a report, in relation to the relevant international conventions and protocols relating to terrorism, on the progress made by Bhutan in:**

  - **Becoming a party to the instruments to which it is not yet a party; and**

Bhutan is a state party to 8 of the13 international counter-terrorism conventions as indicated under OP/2(c). The Royal Government is considering submission of the International Convention for the Suppression of Terrorist Bombing to the winter session (2006) of the National Assembly for accession.

The Royal Government is also studying the four remaining counter-terrorism conventions i.e. the International Convention for the Suppression of Acts of Nuclear Terrorism, Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation, Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf and the Convention on the Physical Protection of Nuclear Material. While no time frame has been set, the Royal Government hopes to accede to these conventions soon.

  - **Enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.**

Under domestic laws all international instruments duly acceded to by Bhutan are self-enacting. Please refer to answer provide for in OP/1(b).

Have the offences set forth in the relevant international conventions and protocols been included as extraditable offences in the bilateral treaties concluded by Bhutan with other countries?

The Kingdom of Bhutan is a State Party to the (i) SAARC Regional Convention for the Suppression of Terrorism (ii) the SAARC Convention on Narcotic Drugs and Psychotropic Substances and (iii) the Additional Protocol to the SAARC Regional Convention for the Suppression of Terrorism. Other state parties to the two Conventions and Protocol include Bangladesh, Nepal, Sri Lanka, India, Pakistan and Maldives. These instruments provide a legal framework for the SAARC member countries in matters of prosecution, extradition and mutual legal assistance amongst others.

Sub-paragraph 3 (g)

Please indicate whether there is an Extradition act or whether extradition is subject to bilateral treaties.

The Extradition Act of 1991 provides for the legislative framework to deal with crimes of extraditable nature. Article 1(d) of the Act states that "This Act may also apply to non-treaty state where the Royal Government of Bhutan considers it expedient to surrender the suspected fugitive offender to that state not withstanding that there is no extradition treaty with that state, subject to modifications, exceptions, conditions and qualifications, if any, as may be made by the Royal Government of Bhutan."

Are claims of political motivation recognized as grounds for refusing requests for extradition?

Yes, under the Extradition Act of 1991 if it is established that the "fugitive offender is deemed to have committed a political offence on the basis of the evidence received from the requesting country or on the basis of evidence produced by the fugitive offender during the course of the investigation by the Court or if it is found that the fugitive offender is being demanded for punishment on political offence".

Under the SAARC Regional Convention for the Suppression of Terrorism and the Additional Protocol to the Convention, a number of internationally defined terrorist offences for the purpose of extradition are not regarded as political offences. These include:

a) An offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970.
b) An offence within the scope of the Convention for the suppression of Unlawful Acts against the Safety of civil Aviation, signed at Montreal on 23 September 1971.
c) An offence within the scope of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, singed at New York on14 December 1973.
d) An offence within the scope of any Convention to which the SAARC member States concerned are parties and which obliges the parties to prosecute or grant extradition.
e) Murder, manslaughter, assault causing bodily harm, kidnapping, hostage-taking and offences relating to firearms, weapons, explosives and dangerous substances when used as a means to perpetrate indiscriminate violence involving death or serious bodily injury to persons or serious damage to property.
f) An attempt to conspiracy to commit an offence described in sub-paragraphs (a) to (e), aiding, abetting or counseling the commission of such an offence or participating as an accomplice in the offences so described.

Under Section 29 of the Civil and Criminal Procedure Code of the Bhutan 2001 the "Royal Courts of Justice shall apply the provisions of international conventions, covenants, protocols and treaties that have been duly acceded to by the Royal Government and ratified by the National Assembly".

Paragraph 4

Has Bhutan addressed any of the concerns expressed in paragraph 4 of the resolution?

Some of the measures that Bhutan has taken since 2002 to address these concerns include:

a) *Becoming a signatory to the (i) International Convention for the Suppression of the Financing of Terrorism (ii) Convention on the Marking of Plastic Explosives for the Purpose of Detection (iii) Single Convention on Narcotic Drugs (iv) Convention on Psychotropic Substances (v) Chemical Weapons Convention (vi) Additional Protocol to the SAARC Regional Convention for the Suppression of Terrorism.*

b) *Enacting (i) The Prudential Regulations 2002 (ii) The Bhutan Penal Code 2004 which has provisions to deal with issues related to money laundering, terrorism and related offences and (ii) The Narcotic Drugs, Psychotropic Substances and Substance Abuse Act 2005 which among others has provisions to deal with drug related money-laundering and international cooperation.*

c) *Establishing (i) the Bhutan Narcotics Control Board which is chaired by a Cabinet Minister and (ii) the Coordination Committee for the Automated Border Management System (ABMS) which is chaired by the Secretary of the Ministry of Home & Cultural Affairs.*

d) *Becoming a member of INTERPOL in order to share information and combat transnational crime.*

Other matters

Could Bhutan please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation, and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the Resolution.

An organizational chart of the Royal Government's administrative machinery is attached as Annexure I.